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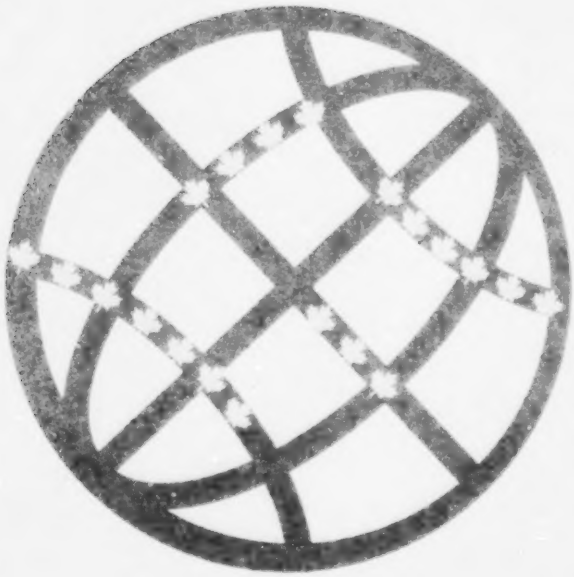

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Indigenous Peoples and Rights within Canadian Foreign Policy

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Introduction

On March 22, 1997, 35 people gathered in Victoria, BC, for a round table on ***Indigenous Peoples, APEC and Canadian Foreign Policy***. A majority of the participants were Indigenous people from Canada (14), the Pacific (2), Asia (1) and Central America (2). The round table also included non-Indigenous Canadians with relevant experience involving international Indigenous rights and policy work. Women made up a majority of participants and an effort was made to include strong participation from youth, who made up a third of the participants.

The round table was organized by the South Pacific Peoples Foundation and funded by the Canadian Centre for Foreign Policy Development. It had the following stated objectives:

1) To begin identifying longer term policy issues and options for the Canadian government vis a vis Indigenous Peoples in an international context, with particular but not sole attention to Indigenous Peoples in Asia and the Pacific; and to propose follow-up strategies to further develop such policy options. To also consider how attention to Indigenous Peoples could relate to broader foreign policy preoccupations of the government vis a vis strengthening of civil society and peacebuilding.

2) To identify short term means by which Indigenous Peoples and issues can be addressed within the framework of Canada's hosting of APEC (Asia-Pacific Economic Cooperation group of 18 countries/economies) and Canada's Year of Asia-Pacific. To also identify specific means by which the Canadian government can facilitate the participation of Indigenous Peoples, particularly from Asia and the Pacific, in activities related to Canada's hosting of APEC and Canada's Year of Asia-Pacific.

3) To facilitate the greater participation of Canadians, and particularly of Indigenous Peoples within Canada (including youth), in the development of Canadian foreign policy.

While the direct stimulus for the round table was Canada's hosting of APEC during 1997 and Canada's Year of Asia-Pacific, most of the policy issues and recommendations speak to Canadian foreign policy at a broader level. At the same time, specific recommendations arose related to APEC and these are addressed in this paper.

This paper is based on the results of the round table. It takes the more developed and significant policy issues and recommendations arising from the round table and elaborates on their potential relevance for Canadian foreign policy. Discussions during the round table also touched on a wider range of topics and ideas that were not as well developed during the time available. A full report on the results of the round table is available as a separate document, ***Indigenous Peoples, APEC and Canadian Foreign Policy: Report on a Round Table***. Many of these other topics and ideas could fruitfully be explored in further round tables.

A Need for Further Consultation

The South Pacific Peoples Foundation has a long history of working with Pacific Indigenous Peoples and facilitating their links with Indigenous Peoples in Canada. In agreeing to organize the round table, we drew on that experience, but emphasized that SPPF has no authority to speak for Indigenous Peoples. It was also agreed that the round table participants were attending in an informal capacity to share their perspectives and develop ideas/recommendations; people were not present to commit their organizations or communities to specific recommendations. Time and budget constraints also limited the range of representation at the meeting. Given the range of knowledgeable Indigenous people who participated, many of these ideas and recommendations could merit support within the Indigenous community, but this cannot be taken for granted. As the Canadian government identifies those recommendations and ideas that they are prepared to consider, it is critical that relevant Indigenous organizations and leaders be consulted directly to assess the suitability of these recommendations from their perspective.

Rethinking Civil Society as it Relates to Indigenous Peoples

The promotion of strong civil societies as a means to promote human rights and democratic development has emerged as a significant element within Canadian foreign policy, one that is closely linked to another priority, peacebuilding. The civil society theme has also been endorsed by many non-governmental organizations (NGOs) in Canada's international cooperation community. However, most attempts to apply this framework to Indigenous Peoples have been seriously flawed, further undermining their rights or leaving them as marginalized as ever.

When Indigenous Peoples are thought of at all in relation to civil society, the tendency has been to see them as simply another sector within civil society. This fails to recognize that Indigenous Peoples are distinct peoples and nations, not just a sector in mainstream society. They include Indigenous governments, business people, NGOs, women, youth, etc. and they share concerns about economic development, environmental issues, social issues and so on. Indigenous societies need to be seen as vibrant and evolving civil societies in and of themselves, generally smaller but often as complex as civil societies within the mainstream societies of nation states.

Members of civil society within Indigenous Nations should have the right to be fully represented and heard within the full range of civil society gatherings associated with APEC and other international meetings. They should also have the right to be present as themselves, as members of a particular Indigenous civil society, not simply as members of Canadian or Indonesian or whichever nation state civil society.

The recognition that Indigenous Nations have their own civil societies also forces critical thinking about how the Canadian government and Canadian NGOs might best support Indigenous rights. On the one hand, there is a need to ensure that Indigenous people have the choice and opportunity to participate fully in civil society meetings and organizations within the mainstream nation state and internationally. At the same time, there needs to be a recognition of the critical need within Indigenous communities to build, rebuild and strengthen their own

Indigenous civil societies. To offer Indigenous Peoples the opportunity to participate in nation state and international civil societies without also providing the necessary support for strengthening of their own civil societies, whatever the rhetoric about human rights and democratic development, can amount to little more than a subtler form of cultural genocide. The choice of what priority to place on internal strengthening versus participation in broader civil societies must also be made by Indigenous Peoples themselves.

In many cases, the situation goes beyond offer or opportunity. Indigenous Peoples are still being forced or urged towards integration into mainstream nation state civil societies, irrespective of their wishes. Alternatively, they are further marginalized and stripped of the traditional territories and resources that would allow them to retain or rebuild their communities and cultures. The policies, practices and aid programs of the Canadian government and NGOs already impact in many ways on Indigenous Peoples and civil societies, often without realization that it is happening. There is a need for Canadian foreign policy and the development assistance policies of the Canadian International Development Agency to explicitly pay attention to Indigenous rights and development, ensuring that Canadian actions do not directly or indirectly bring harm to Indigenous Peoples, and promoting programs and projects that directly support Indigenous rights and development. Such programs and projects should be under the control of Indigenous Peoples. Canadian NGOs should also take similar steps.

There is at least one other way in which the current passion for civil society could be better informed by listening to Indigenous Peoples. Much of the attention to civil society, with regards to both participation and funding, is focused on formal institutions (NGOs, trade unions, women's organizations, etc.). Often ignored is that many of the links that create and animate civil society are informal and subtle – family, clan, tribe, sense of community, the relationships between women as they work side-by-side in the community, and so on. This is true of all societies, but is particularly true of Indigenous Peoples. Many of these informal civil society relationships are particularly important to women and children. Any truly effective strategy for strengthening civil society must pay attention to and support these informal structures.

Foreign and Domestic Policy are Linked

A theme that was addressed, often passionately, by many of the round table participants is that, with respect to Indigenous Peoples, foreign and domestic policy are closely linked. Participants noted that Canada has a long history of undermining Indigenous rights and marginalizing Indigenous Peoples within Canada. The policies and actions of the Canadian government frequently continue this legacy. At the international level, the government's actions often seem to be driven primarily by a desire to ensure that nothing that happens internationally could provide a basis for strengthening the domestic rights of Indigenous Peoples. Several people commented on the role that the government has played at times vis a vis development of the UN Draft Declaration on the Rights of Indigenous Peoples as an example of this. On the domestic front, the government's lack of positive response to the recommendations of the recent Royal Commission was cited as an example of Canada's continuing inability to satisfactorily address the rights and aspirations of Indigenous Peoples within Canada.

People noted that this history and continued practice poses a fundamental contradiction for any attempt to establish a foreign policy that effectively addresses Indigenous rights – within APEC and the Asia-Pacific, around the world, and domestically as it relates to the international context. Without addressing this contradiction, any foreign policy thrust vis a vis Indigenous rights will confront several obstacles:

- It will not enjoy the support of Indigenous Peoples in Canada and the contribution that they could make towards enhancing the effectiveness of such a foreign policy commitment.
- It will have little or no credibility with Indigenous Peoples around the world who are aware of Canada's history and relationship with its own Indigenous Peoples, and will therefore have little reason to trust or cooperate with any Indigenous rights and development initiatives of the Canadian government.
- It will continue to provide a ready excuse for other governments to reject any initiatives or interventions on Indigenous rights and development by the Canadian government as being little more than "do as I say, not as I do".

Thus, prior to the development of specific policies and strategies on Indigenous rights and development by the Canadian government, there is a need to develop a more supportive and appropriate basic policy framework that addresses this contradiction. This should include explicit commitments that Canada will seek the highest possible respect for Indigenous rights in international agreements or covenants and that the government will vigorously apply those standards to its own policies and practice within Canada. While Canada should not forego positive initiatives on Indigenous rights in other countries until we have resolved these issues in our own country, it also means that the credibility of these international efforts will be limited by our domestic shortcomings. Thus, the international effort to strengthen respect for Indigenous rights must be matched by a commitment to address the same issues domestically.

Recognizing a Stewardship Role and Right to Sustainable Development

Sustainable development has become an important cornerstone for Canada's international assistance policy and other aspects of foreign and domestic policy. Indigenous Peoples, within Canada and other countries, have much to offer with respect to models for sustainable development and appropriate environmental stewardship. They also have the right to expect the same of projects and initiatives that have an impact on them and their traditional territories.

The Canadian government should make an increased effort to draw on the expertise of Indigenous Peoples in designing and implementing development and environmental protection programs and projects. This could include greater involvement of Indigenous individuals and organizations in the development programs supported by the Canadian International Development Agency. There is increasing potential to involve Indigenous NGOs, businesses and consultants in overseas development programs in the Asia-Pacific and elsewhere as they develop increased development experience within their own communities. This is a resource that is being only marginally tapped at present, and could benefit overseas communities and the development of Aboriginal communities within Canada.

There should also be a willingness to support projects for Indigenous Peoples which give them the resources to enhance and manage their own development. One idea that was suggested for further investigation was that of trust funds to finance Indigenous community development and environment stewardship. Some such trust funds have already been established, for example in the Pacific Nation of Tuvalu and the First Nation of Haida Gwaii, and could be studied for their relevance to other contexts.

A specific concern was cited about the issue of population transfer, both forced relocation of Indigenous communities and in-migration by non-Indigenous populations, which can eventually make the local Indigenous population a minority in their own territory. It was recommended that it should be Canadian government policy to not support any population transfer initiatives unless they have the support of affected Indigenous Peoples.

Incorporating Indigenous Peoples into the APEC and Foreign Policy Frame of Reference

The dominant model of development has marginalized and exploited Indigenous Peoples, alienated their traditional territories and exploited their environments. In the absence of specific measures to address the rights and roles of Indigenous Peoples, APEC is more likely than not to further this trend. APEC currently does not take account of Indigenous Peoples, their rights to self-determination and fair treatment, or their right to sustainable development. A tunnel vision focus on trade and business, to the exclusion of other concerns, will not change this. Despite the rosy claims of its proponents, it remains to be seen whether APEC has the potential to benefit Indigenous Peoples or whether it will simply exacerbate the problems they already face. To date, neither the Canadian nor other APEC member governments have given Indigenous Peoples much reason to be optimistic.

The round table participants felt that Canada had not demonstrated a will, to date, to include Indigenous Peoples within the foreign policy and trade framework generally, nor within APEC specifically. There was a strong sense that this has to change. Canada's foreign policy needs to take account of Indigenous Peoples, their right to participate and the impact of Canadian policies on them. APEC needs to provide space for the participation of Indigenous Peoples, including Aboriginal business people and governments. The Canadian government can and should take a lead in promoting such inclusion. Only through participation can Indigenous Peoples determine if and how they can benefit from APEC and the economic opportunities that are claimed for it, or conversely can clarify the risks and potential negative impacts and promote steps to deal with these. If Indigenous Peoples are excluded, governments should not be surprised if they become vigorous opponents of the APEC process.

There was a concern that, where Indigenous Peoples are already included in international events, it is done primarily to "hoist the flag", provide cultural entertainment and so on. Participation must be meaningful. One way to do this is to bring Indigenous Peoples into the process in early stages and to allow them a real voice in planning. It was also recommended that participation

needs to extend beyond the thin layer of Aboriginal leaders with whom the government already deals to include Indigenous communities, business people, women, youth, etc.

The round table participants agreed that, just as APEC needs to incorporate Indigenous Peoples, the Indigenous Peoples themselves need to incorporate APEC into their thinking. It was noted that many people attending the round table had little previous knowledge of APEC. At the same time, APEC and similar "economic globalization" developments can be expected to have an impact on Indigenous Peoples. Thus, Indigenous Peoples must take steps to understand the issues and decide how to respond. In making such a recommendation, participants noted that study and participation does not equal consent or endorsement of APEC. It is a prerequisite for informed judgment.

In broadening the policy framework, it needs to be recognized that many issues that are generally perceived as unrelated to Indigenous Peoples actually impact on them in significant ways. As an example, several participants pointed to nuclear issues. Nuclear debates have taken place within mainstream society largely without the participation of Indigenous Peoples, but much of the nuclear chain from mining to weapons testing to proposed waste dumping has focused on Aboriginal territories and communities. Indigenous Peoples have a right to participate in the development of such policies and have a valuable perspective and experience to bring to the discussions.

Developing Business Codes of Conduct

Companies from Canada and other APEC members are expanding their operations to impact on the traditional territories and communities of even the more isolated Indigenous Peoples. In most cases, this happens without the consent or involvement of the affected Aboriginal communities. Rarely do governments require or even encourage companies to negotiate the basis for their activities with affected Indigenous Peoples. The free trade and open investment aims of APEC and similar initiatives can only increase this trend. We can expect to see increased activity by Canadian companies within the territories of Indigenous Peoples in other APEC members and we're already seeing new developments by Asia-Pacific companies within Canada.

Round Table participants noted the increasing public debate about business codes of conduct and recommended that the Canadian government promote such codes generally and with respect to the interaction of companies with Indigenous Peoples. The Canadian government can address this both within Canada and overseas, i.e. encouraging/requiring Canadian companies to respect the rights and traditional territories of Indigenous Peoples and to negotiate development projects with affected Aboriginal communities overseas, and encouraging/requiring such policies and practices of foreign companies operating within Canada. Having addressed these matters within our own "backyard", the Canadian government would then be in a stronger position to promote such policies and practices within APEC and other international trade fora.

There was a concern that such codes need to be more than just codes of ethics or "motherhood statements". They should be codes of practice/conduct, should meet specific standards and

should be monitored for effective implementation. They should exist at the individual company level and as model codes of conduct adopted by associations representing specific business sectors. Enforceable government policies (legislation, regulations) can also address minimum standards, for example requiring that major projects have both environmental and social impact studies and that an agreement must be in place with affected Indigenous communities before project approval will be given. Further research will need to identify what points of leverage the Canadian government has with respect to Canadian companies operating overseas and Asia-Pacific companies operating in Canada. A mix of strategies that appropriately blends encouragement and regulation will then have to be developed.

To encourage and reward companies for positive action, it was suggested that a system of product labeling be developed that would recognize positive action with respect to Indigenous Peoples. This could also be extended to company advertising.

With respect to the international exploitation of children, including child labour, participants noted that many such children are Aboriginal. They noted that the Canadian government has taken some steps to address this issue and recommended that further efforts take place, including efforts specifically targeted at Indigenous children.

It was recognized that there is a need to educate companies about the impact of their activities on Indigenous Peoples and the benefits that could accrue to Indigenous communities and the companies themselves from a more enlightened approach. It was recommended that the government consider supporting initiatives that would provide Indigenous Peoples with opportunities to do workshops with business people.

Protecting Indigenous Intellectual Property Rights

The increasing exploitation of Indigenous intellectual property and heritage rights was noted with great concern. This is both a justice issue and an economic development issue. Indigenous Peoples should have the right to determine what of their traditional knowledge and heritage is to be shared and what will remain within their society. Their traditional knowledge, for example with medicines, can also provide a significant basis for economic development by Indigenous Peoples. Having developed and preserved this knowledge over many generations, they watch with dismay as others exploit this knowledge and patent the results, generally without their consent. Round table participants also expressed a similar concern about the increasing exploitation of Indigenous genetic resources.

It is important that effective national and international legal protection is developed and enforced for Indigenous intellectual property and heritage rights. The Canadian government should develop such legislation for Canada and should promote the adoption of effective international agreements in this area.

Facilitating the Participation of Indigenous Peoples within APEC and Canada's Year of Asia-Pacific

Canada should promote the involvement of Indigenous Peoples within appropriate APEC fora, including the various APEC working groups and meetings. Financial support for participation will also be necessary. Canada can move most directly to promote and support such involvement for Indigenous Peoples in Canada, inviting Indigenous representatives to attend meetings and be part of delegations and working groups, but the Canadian government can also encourage Indigenous involvement from other APEC members. One specific initiative to do this could be for Canada to sponsor an international conference to look specifically at Indigenous economic and business development within the APEC region.

It was noted that national and international agreements and policies are generally developed well in advance of international meetings like APEC. The round table participants recommended that the input of Indigenous Peoples be sought during the development of Canadian positions on APEC issues. It was suggested that some of the participants in this round table should be among the wider range of Indigenous representatives invited to participate in APEC related meetings.

Given the widespread lack of knowledge about APEC among Indigenous communities and organizations in Canada, there is a need for education. Information about APEC needs to be made available to Indigenous people and organizations, including information about the working groups and committees and Canada's representatives on these groups. Educational workshops need to be held with interested Aboriginal people and organizations. It was recommended that the government make available financial and other support for such initiatives. It was emphasized that these educational efforts should not just reflect pro-APEC propaganda, but should involve and reflect a range of perspectives on APEC.

There is an urgent need to begin these steps during Canada's year as host of APEC, then to build on the initial foundation in future years.

The round table also looked at the specific issue of Indigenous Peoples' participation in the November meetings associated with Canada's hosting of APEC. It was noted that Indigenous Peoples are among the most economically marginalized throughout the APEC region and will thus have great difficulty in being represented in Vancouver. There is a high likelihood that the voices of Asia-Pacific Indigenous Peoples will not be heard within the broader debates about trade, the environment, human rights and other topics. It was therefore recommended that the Canadian government provide a pool of funds to support travel and participation for Asia-Pacific Indigenous Peoples within the People's Summit and associated meetings. A portion of these funds should be specifically targeted at participation by Indigenous youth.

It was further recommended that the Canadian government work with Indigenous leaders and organizations to identify meaningful ways for Indigenous participation in the official APEC meetings beyond the usual ceremonial and cultural entertainment roles.

Facilitating Input from Indigenous Peoples into Canadian Foreign Policy Continuing the Round Table Process

Participants evaluated the round table as a very successful first effort. For some, particularly the youth, it was their first opportunity to think about foreign policy issues and to be involved in such discussions. Given the limited time available and the newness for many participants of some of the topics (particularly APEC), the round table only scratched the surface of the subject. While participants were keen to see the recommendations of the round table seriously considered by the government, there was also a sense that further discussions could flesh out some of these ideas and develop other relevant recommendations. The participants also felt that the round table process, bringing together a wide range of people who did not normally have an opportunity to discuss issues together, had been a very worthwhile experience and should be continued.

As a result, participants recommended that the Canadian government provide other opportunities for Indigenous Peoples to have input into Canadian foreign policy. They also recommended that the Canadian Centre for Foreign Policy Development provide further support to the South Pacific Peoples Foundation to continue this round table process. While it was felt that the short timelines somewhat limited the range of participation in this first round table, and that some widening of participation might be appropriate for future meetings, it was also felt that the first meeting had helped to foster a good working relationship and familiarity with the issues among participants. It was therefore recommended that the same group of people, with limited additions, be invited to participate in subsequent meetings of the round table.

The participants recommended that future meetings of the round table and other consultations on foreign policy continue to involve youth as full participants in the process.

Participants saw two way communications as important to this process and to building the confidence of Indigenous Peoples (and Canadians generally) in the value of committing time to the foreign policy dialogue. They therefore mandated SPPF to monitor the government's response to the round table recommendations and to report the results to participants. It is therefore suggested that the Department of Foreign Affairs & International Trade and the Canadian Centre for Foreign Policy Development establish a process for monitoring the Department's consideration of the round table's recommendations and for reporting through SPPF and other organizations to the round table participants and others with an interest in Indigenous rights.

Given the limited meeting time, the round table was remarkably productive of ideas and recommendations. Also notable was the enthusiasm, energy and trust that developed among the participants. The response of the government to these recommendations and its willingness to support further consultations on foreign policy with Indigenous Peoples will largely determine whether this enthusiasm will be sustained.